



U.S. Department of Justice

Immigration and Naturalization Service



OFFICE OF ADMINISTRATIVE APPEALS  
425 Eye Street N.W.  
ULLB, 3rd Floor  
Washington, D.C. 20536



Public Copy

APR 28 2000

FILE

IN RE: Applicant:

APPLICATION:

IN BEHALF OF APPLICANT: Self-represented

INSTRUCTIONS:

Identifying data related to  
prevent clearly unwarranted  
invasion of personal privacy

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,  
EXAMINATIONS

Terrance M. O'Reilly, Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the District Director, Harlingen, Texas, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The record reflects that the applicant was born on October 4, 1987 in Reynosa, Tamaulipas, Mexico. The applicant's father, [REDACTED], was born in El Paso, Texas, in November 1964. The applicant's mother, [REDACTED] was born in Mexico in 1962 and never became a U.S. citizen. The applicant's parents married each other on April 3, 1989. The applicant seeks a Certificate of Citizenship under § 309(c) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1409(c).

The district director denied the application after he determined the record failed to establish the applicant's father had the required continuous physical presence in the United States prior to the applicant's birth.

On appeal, the applicant states that she is in a position to establish the physical presence of her father in the United States and requests that the Service inform her of her next appointment in regard to this notice of appeal.

Section 309(a). The provisions of paragraphs (c), (d), (e), and (g) of § 301, and of paragraph (2) of § 308, shall apply as of the date of birth to a person born out of wedlock if-

(1) a blood relationship between the person and the father is established by clear and convincing evidence,

(2) the father had the nationality of the United States at the time of the person's birth,

(3) the father (unless deceased) has agreed in writing to provide financial support for the person until the person reaches the age of 18 years, and

(4) while the person is under the age of 18 years-

(A) the person is legitimated under the law of the person's residence or domicile,

(B) the father acknowledges paternity of the person in writing under oath, or

(C) the paternity of the person is established by adjudication of a competent court.

The record reflects that the applicant was accorded interviews on May 23, 1996, on August 13, 1997 and on January 25, 1998 and she failed to provide the necessary documentation. The applicant was interviewed for the fourth time on March 30, 1998 and again she failed to provide the necessary documentation. The applicant on appeal merely requests that she be given a fifth interview. The applicant has not submitted any evidence for consideration on appeal.

8 C.F.R. 341.2(c) provides that the burden of proof shall be upon the claimant, or his parent or guardian if one is acting in his behalf, to establish the claimed citizenship by a preponderance of the evidence. The applicant in this matter has not met that burden. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.